

1 AN ACT in relation to utilities.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Public Utilities Act is amended by  
5 changing Sections 19-105, 19-110, 19-115, and 19-120 and  
6 adding Sections 19-125, 19-130, and 19-135 as follows:

7 (220 ILCS 5/19-105)

8 Sec. 19-105. Definitions. For the purposes of this  
9 Article, the following terms shall be defined as set forth in  
10 this Section.

11 "Alternative gas supplier" means every person,  
12 cooperative, corporation, municipal corporation, company,  
13 association, joint stock company or association, firm,  
14 partnership, individual, or other entity, their lessees,  
15 trustees, or receivers appointed by any court whatsoever,  
16 that offers gas for sale, lease, or in exchange for other  
17 value received to one or more customers, or that engages in  
18 the furnishing of gas to one or more customers, and shall  
19 include affiliated interests of a gas utility, resellers,  
20 aggregators and marketers, but shall not include (i) gas  
21 utilities (or any agent of the gas utility to the extent the  
22 gas utility provides tariffed services to customers through  
23 an agent); (ii) public utilities that are owned and operated  
24 by any political subdivision, public institution of higher  
25 education or municipal corporation of this State, or public  
26 utilities that are owned by a political subdivision, public  
27 institution of higher education, or municipal corporation and  
28 operated by any of its lessees or operating agents; (iii)  
29 residential natural gas cooperatives that are not-for-profit  
30 corporations established for the purpose of administering and  
31 operating, on a cooperative basis, the furnishing of natural

1 gas to residences for the benefit of their members who are  
2 residential consumers of natural gas; and (iv) the ownership  
3 or operation of a facility that sells compressed natural gas  
4 at retail to the public for use only as a motor vehicle fuel  
5 and the selling of compressed natural gas at retail to the  
6 public for use only as a motor vehicle fuel.

7 "Gas utility" means a public utility, as defined in  
8 Section 3-105 of this Act, that has a franchise, license,  
9 permit, or right to furnish or sell gas or transportation  
10 services to customers within a service area.

11 "Residential customer" means a customer who receives gas  
12 utility service for household purposes distributed to a  
13 dwelling of 2 or fewer units which is billed under a  
14 residential rate or gas utility service for household  
15 purposes distributed to a dwelling unit or units which is  
16 billed under a residential rate and is registered by a  
17 separate meter for each dwelling unit.

18 "Service area" means (i) the geographic area within which  
19 a gas utility was lawfully entitled to provide gas to  
20 customers as of the effective date of this amendatory Act of  
21 the 92nd General Assembly and includes (ii) the location of  
22 any customer to which the gas utility was lawfully providing  
23 gas utility services on such effective date.

24 "Small commercial customer" means a nonresidential retail  
25 customer of a natural gas utility who is identified by the  
26 alternative gas supplier, prior to becoming a customer of the  
27 alternative gas supplier, as consuming 5,000 or fewer therms  
28 of natural gas during the previous year; provided that any  
29 alternative gas supplier may remove the customer from  
30 designation as a "small commercial customer" if the customer  
31 consumes more than 5,000 therms of natural gas in any  
32 calendar year after becoming a customer of the alternative  
33 gas supplier.

34 "Tariffed service" means a service provided to customers

1 by a gas utility as defined by its rates on file with the  
2 Commission pursuant to the provisions of Article IX of this  
3 Act.

4 "Transportation services" means those services provided  
5 by the gas utility that are necessary in order for the  
6 storage, transmission and distribution systems to function so  
7 that customers located in the gas utility's service area can  
8 receive gas from suppliers other than the gas utility and  
9 shall include, without limitation, standard metering and  
10 billing services.

11 (Source: P.A. 92-529, eff. 2-8-02.)

12 (220 ILCS 5/19-110)

13 Sec. 19-110. Certification of alternative gas suppliers.

14 (a) The provisions of this Section shall apply only to  
15 alternative gas suppliers serving or seeking to serve  
16 residential or small commercial customers and only to the  
17 extent such alternative gas suppliers provide services to  
18 residential or small commercial customers.

19 (b) An alternative gas supplier must obtain a  
20 certificate of service authority from the Commission in  
21 accordance with this Section before serving any customer or  
22 other user located in this State. An alternative gas  
23 supplier may request, and the Commission may grant, a  
24 certificate of service authority for the entire State or for  
25 a specified geographic area of the State. A person,  
26 corporation, or other entity acting as an alternative gas  
27 supplier on the effective date of this amendatory Act of the  
28 92nd General Assembly shall have 180 days from the effective  
29 date of this amendatory Act of the 92nd General Assembly to  
30 comply with the requirements of this Section in order to  
31 continue to operate as an alternative gas supplier.

32 (c) An alternative gas supplier seeking a certificate of  
33 service authority shall file with the Commission a verified

1 application containing information showing that the applicant  
2 meets the requirements of this Section. The alternative gas  
3 supplier shall publish notice of its application in the  
4 official State newspaper within 10 days following the date of  
5 its filing. No later than 45 days after the application is  
6 properly filed with the Commission, and such notice is  
7 published, the Commission shall issue its order granting or  
8 denying the application.

9 (d) An application for a certificate of service  
10 authority shall identify the area or areas in which the  
11 applicant intends to offer service and the types of services  
12 it intends to offer. Applicants that seek to serve  
13 residential or small commercial customers within a geographic  
14 area that is smaller than a gas utility's service area shall  
15 submit evidence demonstrating that the designation of this  
16 smaller area does not violate Section 19-115. An applicant  
17 may state in its application for certification any  
18 limitations that will be imposed on the number of customers  
19 or maximum load to be served.

20 (e) The Commission shall grant the application for a  
21 certificate of service authority if it makes the findings set  
22 forth in this subsection based on the verified application  
23 and such other information as the applicant may submit.

24 (1) That the applicant possess sufficient  
25 technical, financial, and managerial resources and  
26 abilities to provide the service for which it seeks a  
27 certificate of service authority. In determining the  
28 level of technical, financial, and managerial resources  
29 and abilities which the applicant must demonstrate, the  
30 Commission shall consider the characteristics, including  
31 the size and financial sophistication of the customers  
32 that the applicant seeks to serve, and shall consider  
33 whether the applicant seeks to provide gas using  
34 property, plant, and equipment that it owns, controls, or

1 operates.

2 (2) That the applicant will comply with all  
3 applicable federal, State, regional, and industry rules,  
4 policies, practices, and procedures for the use,  
5 operation, and maintenance of the safety, integrity, and  
6 reliability of the gas transmission system.

7 (3) That the applicant will comply with such  
8 informational or reporting requirements as the Commission  
9 may by rule establish.

10 (4) That the area to be served by the applicant and  
11 any limitations it proposes on the number of customers or  
12 maximum amount of load to be served meet the provisions  
13 of Section 19-115, provided, that if the applicant seeks  
14 to serve an area smaller than the service area of a gas  
15 utility or proposes other limitations on the number of  
16 customers or maximum amount of load to be served, the  
17 Commission can extend the time for considering such a  
18 certificate request by up to 90 days, and can schedule  
19 hearings on such a request.

20 (5) That the applicant will comply with all other  
21 applicable laws and rules.

22 (f) The Commission shall have the authority to  
23 promulgate rules to carry out the provisions of this Section.  
24 Within 30 days after the effective date of this amendatory  
25 Act of the 92nd General Assembly, the Commission shall adopt  
26 an emergency rule or rules applicable to the certification of  
27 those gas suppliers that seek to serve residential customers.  
28 Within 180 days of the effective date of this amendatory Act  
29 of the 92nd General Assembly, the Commission shall adopt  
30 rules that specify criteria which, if met by any such  
31 alternative gas supplier, shall constitute the demonstration  
32 of technical, financial, and managerial resources and  
33 abilities to provide service required by item (1) of  
34 subsection (e) of this Section, such as a requirement to post

1 a bond or letter of credit, from a responsible surety or  
 2 financial institution, of sufficient size for the nature and  
 3 scope of the services to be provided, demonstration of  
 4 adequate insurance for the scope and nature of the services  
 5 to be provided, and experience in providing similar services  
 6 in other jurisdictions.

7 (Source: P.A. 92-529, eff. 2-8-02.)

8 (220 ILCS 5/19-115)

9 Sec. 19-115. Obligations of alternative gas suppliers.

10 (a) The provisions of this Section shall apply only to  
 11 alternative gas suppliers serving or seeking to serve  
 12 residential or small commercial customers and only to the  
 13 extent such alternative gas suppliers provide services to  
 14 residential or small commercial customers.

15 (b) An alternative gas supplier shall:

16 (1) comply with the requirements imposed on public  
 17 utilities by Sections 8-201 through 8-207, 8-301, 8-505  
 18 and 8-507 of this Act, to the extent that these Sections  
 19 have application to the services being offered by the  
 20 alternative gas supplier; and

21 (2) continue to comply with the requirements for  
 22 certification stated in Section 19-110.

23 (c) An alternative gas supplier shall obtain verifiable  
 24 authorization from a customer, in a form or manner approved  
 25 by the Commission, before the customer is switched from  
 26 another supplier.

27 (d) No alternative gas supplier shall:

28 (1) enter into or employ any arrangements which  
 29 have the effect of preventing any customer from having  
 30 access to the services of the gas utility in whose  
 31 service area the customer is located; or

32 (2) charge customers for such access.

33 (e) An alternative gas supplier that is certified to

1 serve residential or small commercial customers shall not:

2 (1) deny service to a customer or group of  
3 customers nor establish any differences as to prices,  
4 terms, conditions, services, products, facilities, or in  
5 any other respect, whereby such denial or differences are  
6 based upon race, gender, or income; or

7 (2) deny service based on locality, nor establish  
8 any unreasonable difference as to prices, terms,  
9 conditions, services, products, or facilities as between  
10 localities.

11 (f) An alternative gas supplier shall comply with the  
12 following requirements with respect to the marketing,  
13 offering, and provision of products or services:

14 (1) Any marketing materials which make statements  
15 concerning prices, terms, and conditions of service shall  
16 contain information that adequately discloses the prices,  
17 terms and conditions of the products or services.

18 (2) Before any customer is switched from another  
19 supplier, the alternative gas supplier shall give the  
20 customer written information that adequately discloses,  
21 in plain language, the prices, terms, and conditions of  
22 the products and services being offered and sold to the  
23 customer.

24 (3) The alternative gas supplier shall provide to  
25 the customer:

26 (A) accurate, timely, and itemized billing  
27 statements that describe the products and services  
28 provided to the customer and their prices and that  
29 specify the gas consumption amount and any service  
30 charges and taxes; provided that this item (f)(3)(A)  
31 does not apply to small commercial customers; and

32 (B) an additional statement, at least  
33 annually, that adequately discloses the average  
34 monthly prices, and the terms and conditions, of the

1 products and services sold to the customer; provided  
 2 that this item (f)(3)(B) does not apply to small  
 3 commercial customers;-

4 (C) refunds of any deposits with interest  
 5 within 30 days after the date that the customer  
 6 changes gas suppliers or discontinues service if the  
 7 customer has satisfied all of his or her outstanding  
 8 financial obligations to the alternative gas  
 9 supplier at an interest rate set by the Commission  
 10 which shall be the same as that required of gas  
 11 utilities; and

12 (D) refunds, in a timely fashion, of all  
 13 undisputed overpayments upon the oral or written  
 14 request of the customer.

15 (g) An alternative gas supplier may limit the overall  
 16 size or availability of a service offering by specifying one  
 17 or more of the following:

18 (1) a maximum number of customers and maximum  
 19 amount of gas load to be served;

20 (2) time period during which the offering will be  
 21 available; or

22 (3) other comparable limitation, but not including  
 23 the geographic locations of customers within the area  
 24 which the alternative gas supplier is certificated to  
 25 serve.

26 The alternative gas supplier shall file the terms and  
 27 conditions of such service offering including the applicable  
 28 limitations with the Commission prior to making the service  
 29 offering available to customers.

30 (h) Nothing in this Section shall be construed as  
 31 preventing an alternative gas supplier that is an affiliate  
 32 of, or which contracts with, (i) an industry or trade  
 33 organization or association, (ii) a membership organization  
 34 or association that exists for a purpose other than the

1 purchase of gas, or (iii) another organization that meets  
 2 criteria established in a rule adopted by the Commission from  
 3 offering through the organization or association services at  
 4 prices, terms and conditions that are available solely to the  
 5 members of the organization or association.

6 (Source: P.A. 92-529, eff. 2-8-02.)

7 (220 ILCS 5/19-120)

8 Sec. 19-120. Commission oversight of services provided  
 9 by gas suppliers.

10 (a) The provisions of this Section shall apply only to  
 11 alternative gas suppliers serving or seeking to serve  
 12 residential or small commercial customers and only to the  
 13 extent such alternative gas suppliers provide services to  
 14 residential or small commercial customers.

15 (b) The Commission shall have jurisdiction in accordance  
 16 with the provisions of Article X of this Act to entertain and  
 17 dispose of any complaint against any alternative gas supplier  
 18 alleging that:

19 (1) the alternative gas supplier has violated or is  
 20 in nonconformance with any applicable provisions of  
 21 Section 19-110 or Section 19-115;

22 (2) an alternative gas supplier has failed to  
 23 provide service in accordance with the terms of its  
 24 contract or contracts with a customer or customers;

25 (3) the alternative gas supplier has violated or is  
 26 in nonconformance with the transportation services tariff  
 27 of, or any of its agreements relating to transportation  
 28 services with, the gas utility or municipal system  
 29 providing transportation services; or

30 (4) the alternative gas supplier has violated or  
 31 failed to comply with the requirements of Sections 8-201  
 32 through 8-207, 8-301, 8-505, or 8-507 of this Act as made  
 33 applicable to alternative gas suppliers.

1 (c) The Commission shall have authority after notice and  
2 hearing held on complaint or on the Commission's own motion  
3 to:

4 (1) order an alternative gas supplier to cease and  
5 desist, or correct, any violation of or nonconformance  
6 with the provisions of Section 19-110 or 19-115;

7 (2) impose financial penalties for violations of or  
8 nonconformances with the provisions of Section 19-110 or  
9 19-115, not to exceed (i) \$10,000 per occurrence or (ii)  
10 \$30,000 per day for those violations or nonconformances  
11 which continue after the Commission issues a  
12 cease-and-desist order; and

13 (3) alter, modify, revoke, or suspend the  
14 certificate of service authority of an alternative gas  
15 supplier for substantial or repeated violations of or  
16 nonconformances with the provisions of Section 19-110 or  
17 19-115.

18 (Source: P.A. 92-529, eff. 2-8-02.)

19 (220 ILCS 5/19-125 new)

20 Sec. 19-125. Consumer education.

21 (a) The Commission shall make available upon request and  
22 at no charge, and shall make available to the public on the  
23 Internet through the State of Illinois World Wide Web site:

24 (1) a list of all certified alternative gas  
25 suppliers serving residential and small commercial  
26 customers within the service area of each gas utility  
27 including, in the case of the Internet, computer links to  
28 available web sites of the certified alternative gas  
29 suppliers;

30 (2) a list of all certified alternative gas  
31 suppliers serving residential or small commercial  
32 customers that have been found in the last 3 years by the  
33 Commission pursuant to Section 10-108 to have failed to

1 provide service in accordance with this Act;

2 (3) guidelines to assist customers in determining  
3 which gas supplier is most appropriate for each customer;  
4 and

5 (4) Internet links to providers of information that  
6 enables customers to compare prices and services of gas  
7 utilities and alternative gas suppliers, if and when that  
8 information is available.

9 (b) In any service area where customers are able to  
10 choose their natural gas supplier, the Commission shall  
11 require gas utilities and alternative gas suppliers to inform  
12 customers of how they may contact the Commission in order to  
13 obtain information about the customer choice program.

14 (220 ILCS 5/19-130 new)

15 Sec. 19-130. Commission study and report. Beginning in  
16 2003, and ending in 2007, the Commission shall prepare an  
17 annual report regarding the development of natural gas  
18 markets in Illinois. The report shall be filed by July 1 of  
19 each year with the Joint Committee on Legislative Support  
20 Services of the General Assembly and the Governor and shall  
21 be publicly available. The report shall include, at a  
22 minimum, the following information:

23 (1) the aggregate annual demand of retail natural  
24 gas customers in the State of Illinois in the preceding  
25 calendar year;

26 (2) the total annual therms delivered and sold to  
27 retail customers in the State of Illinois by each gas  
28 utility and each alternative gas supplier in the  
29 preceding calendar year;

30 (3) the percentage of therms delivered and sold to  
31 customers in the State of Illinois in the preceding  
32 calendar year by each gas utility and each alternative  
33 gas supplier;

1           (4) the total number of customers in the State of  
2           Illinois served in the preceding calendar year by each  
3           gas utility and each alternative gas supplier;

4           (5) an analysis of the status and development of  
5           the retail natural gas market in the State of Illinois;  
6           and

7           (6) any other information the Commission considers  
8           significant in assessing the development of gas markets  
9           in the State of Illinois.

10           (220 ILCS 5/19-135 new)

11           Sec. 19-135. Single billing. It is the intent of the  
12           General Assembly that in any service area where customers are  
13           able to choose their natural gas supplier, a single billing  
14           option shall be offered to customers for both the services  
15           provided by the alternative gas supplier and the delivery  
16           services provided by the gas utility. A gas utility shall  
17           file a tariff pursuant to Article IX of this Act that allows  
18           alternative gas suppliers to issue single bills to  
19           residential and small commercial customers for both the  
20           services provided by the alternative gas supplier and the  
21           delivery services provided by the gas utility to customers;  
22           provided that if a form of single billing is being offered in  
23           a gas utility's service area on the effective date of this  
24           amendatory Act of the 92nd General Assembly, that form of  
25           single billing shall remain in effect unless and until  
26           otherwise ordered by the Commission.

27           Section 99. Effective date. This Act takes effect upon  
28           becoming law.